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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/673,059

09/26/2003

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944-1.117

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12/07/2009

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EXAMINER

PEREZ, JULIO R

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

12/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/673,059 | Applicant(s) BAGGSTROM ET AL. | |
| | Examiner JULIO PEREZ | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10, 12-15, 19, 20- 23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 5 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 08/24/2009 have been fully considered but they are not persuasive.

The applicant argues that Alperrovich does not disclose or suggests the device with active connection to *each* of the currently active cellular network systems.

The examiner respectfully disagrees: In response, it should be noted that Alperrovich connects the device to a currently active cellular system: it is noted that the limitation gives an option of obtaining information about one (or more) currently active connections of which the device has one (or more) active connections. The examiner has selected the option of *one* active connection with which the device has *one* connection. Thus, Alperrovich (page 4, lines 23-32-page 5, and lines 1-4, 16-27) meets the limitation as the limitation is written with alternative language.

The applicant further argues that Alperrovich does teach "on active connections," page 8, second paragraph, last lines.

The examiner respectfully disagrees: In response, it should be further noted that Alperrovich connects to one currently cellular system (one connection) as an alternative language is provided, i.e., one or more active connections.

The applicant argues that the combination of Chitrapu and Alperrovich does not disclose or suggest that the communication device has one or more active connection *to each* of the one or more currently active cellular network.

The examiner respectfully disagrees: In response, the Examiner notes that

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Alperrovich teaches providing connection to a cellular system, thus it provides one connection to one active system (Alperrovich, page 4, lines 23-32-page 5, lines 1-4, 16-27), (Chitrapu, Figure 2, par. 14, pars. 16-17). Furthermore, it should be noted that Chitrapu has not been applied alone to meet the argued limitation. It is the combination of Alperrovich, Chitrapu and Dowling what meets the argued limitation.

The applicant further argues that the combination of Chitrapu and Alperrovich does not disclose or suggest a new connection to one of the currently active cellular network. The examiner respectfully disagrees: In response, it should be noted that Chitrapu has not been applied alone to meet the argued limitation. It is the combination of Alperrovich, Chitrapu and Dowling what meets the argued limitation.

The applicant argues that the combination of Alperrovich, Chitrapu and Dowling does not disclose or suggest features as recited in amended claim 1, i.e., using the number or type of active connections for establishing a new connection. The examiner respectfully disagrees: In response, it should be noted that Chitrapu has not been applied alone to meet the argued limitation. It is the combination of Alperrovich, Chitrapu and Dowling what meets the argued limitation (Dowling, pars. 27, 28, 33-34, 37-41).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 3, 6-7, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperrovich (WO99/30479) in view of Chitrapu (US 20040092265) in view of Dowling (US20060195551A1).

Regarding claim 1, Alperrovich discloses a device obtaining information about one currently active cellular network system to which the device has one active connection for respective connected applications hosted by the device (page 3, lines 19-22, teach identification of cellular networks within the area coverage of the mobile for determining the available systems as information is exchanged with each cellular system); and deciding whether to allow establishing a new connection to one of the currently active cellular network systems on behalf of another application hosted by the device (page 4, lines 23-32-page 5, lines 1-4, 16-27, and claim 1, lines 10-14, further teach a new connection being performed based on a cellular system having a lower rate, which reads on connecting to another cellular system with an application, i.e., deciding on use of favorite factors, within the device), but is silent on based on factors including the information about currently active network systems.

Although Alperrovich teaches connection to active cellular networks, Alperrovich does not specifically suggest but is silent on based on factors including the information about currently active network systems. Chitrapu, however, discloses information about combinations of different connections allowed by each currently active network system (Fig. 2, #'s 14a, 22, 24, Fig. 4, #'s s2, s4; par. 15, lines 1-12; pars. 16-17).

Alperrovich and Chitrapu are analogous art because they are from a similar field of endeavor in providing connection to devices by providing connection to different

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systems. Thus, it would have obvious to one of skilled in the art at the time of the invention to modify the teaching of Alperrovich with information about combinations of different connections allowed taught by Chitrapu in order that the device would generate indication of changing to a different system based on information that is appropriate for continuing the connection for more efficient and accurate communication.

Alperrovich and Chitrapu do not explicitly teach wherein the information includes at least the number and type of connections currently in use. Dowling, however, teaches one or more servers coupled to the packet transport interface for routing functions for packet rerouting within the proximity of the mobile device (pars. 27, 28, 33, 34, 37-41).

Alperrovich, Chitrapu, and Dowling are analogous art because they are from a similar field of endeavor in providing connections to several systems and providing information or data to several devices via wireless connections. Thus, it would have been obvious to one of skilled in the art at the time of the invention to modify the teachings of Alperrovich in view of Chitrapu with the feature of servers coupled to the packet transport interface for routing functions for packet rerouting within the proximity of the mobile device taught by Dowling in order to provide means to detect amount of traffic or load within the system and provide a load balancing scheme.

Regarding claim 2, the combination discloses, wherein the information about currently active cellular network systems includes information about combinations of different kinds of connections allowed by each currently active cellular network system (Chitrapu, col. 1, lines 40-49; col.. 2, lines 36-51; col. 3, lines 5-10; col. 4, lines 25-35, 50-67; col. 6, lines 58-67-col. 7, lines 1-2).

Regarding claim 3, the combination discloses, wherein the factors also include information about connections currently in use or wherein the information about currently active cellular network systems includes information about connections currently in use (Chitrapu, pars. 16-17, par. 22, lines 5-13).

Regarding claim 6, the combination discloses the factors also include the maximum amount of concurrent packet switched data allowed by the connections currently in use (Chitrapu, pars. 16-17, par. 22).

Regarding claim 7, the combination discloses the active cellular network systems include at least a GSM network, a WCDMA network, or a CDMA2000 network (Chitrapu, Fig. 3, includes GSM cellular system, # 26).

Regarding claim 16, the combination discloses embodying computer program code thereon for execution by a computer processor in a telecommunication terminal, with said computer program code characterized in that it includes programming instructions (Chitrapu, Fig. 4, #'s 2, 4, 6, 7; par. 23, lines 15).

Regarding claim 18, the combination discloses embodying computer program code thereon for execution by a computer processor in a telecommunication terminal, with said computer program code characterized in that it includes instructions for performing the steps (Chitrapu, par. 23, and lines 1-15).

Allowable Subject Matter

4. Claims 5, 17, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the

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indication of allowable subject matter: None of the prior art, either singularly or in combination, teach or fairly suggest wherein the application making a request of the device to establish the network connection and including in the request an identifier for the application, wherein the information about connections currently in use includes identifiers for applications using the connections currently in use, and further wherein the factors also include the identifier for the application and the identifiers for applications using the connections currently in use.

5. Claims 8-10, 12-15, 19, 20-23, are allowed. The following is a statement of reasons for the indication of allowable subject matter: a network resource control module, responsive to the request to allow establishing the connection and responsive to information about one or more currently active cellular network systems to each of which the mobile terminal, which has one or more active connections for respective connected applications hosted by the device for determining whether to allow establishing the connection based on factors including the information about the one or more currently active cellular network systems and wherein the information about connections currently in use includes at least the number and type of connections currently in use.

6.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/3/2009

/J. P./
Examiner, Art Unit 2617

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617